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Baker Hostetler

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October 4, 2010

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Federal Election Commission  
General Counsel Office  
999 E Street, N.W.  
Washington, DC 20463  
Attention Frankie D. Hampton

Re RIUR 6366

Dear Ms. Hampton:

This letter is in response to the Federal Election Commission's ("Commission") letters to Charles and Judy Black, notifying them that the Commission had received a complaint that indicates they may have violated the Federal Election Campaign Act ("Act") of 1971, as amended. A copy of the complaint was enclosed with the Commission's letter.

I have been retained to represent Charles and Judy Black. After a review of the complaint, it is clear this matter as regard the Blacks should be immediately terminated without further action by the Commission. The Act and the Commission's regulations require that a complaint meets certain requirements.<sup>1</sup> The complaint filed by Ryan Miscall fails to meet these requirements. The Commission has no authority to move forward with an investigation on any matter based upon a complaint which fails to meet the basic requirements of its regulations.

The complaint does comply with two requirements of the Commission's regulations:

- (1) It provides the full name and address of the complainant; and
- (2) It is sworn to and signed in the presence of a notary public and is notarized.<sup>2</sup>

<sup>1</sup> 2 U.S.C. § 437g(a)(1); 11 C.F.R. § 111.4

<sup>2</sup> 11 C.F.R. § 111.4(b)(1) and (2).

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The complaint fails to comply with other requirements. A complaint must, if not based upon personal knowledge, be accompanied by an identification of the source of information which gives rise to a complainant's belief of the truth of such statement.<sup>3</sup> None of the statements in the complaint that relate to Charles or Judy Black are based upon the complainant's personal knowledge. It appears Ryan Miskell has no personal knowledge of any relevant facts about the Blacks in regard to this matter. The complaint does not identify any specific source for the information he uses for his assertions.

The deficiency is evidenced in even a cursory review of the complaint. The first reference to my clients appears under the heading "FACTS" in Paragraph 8 which states: *it is believed through public information and knowledgeable sources that Josh Penry and Bill Miller coordinated with Charlie and Judy Black to raise money for the independent expenditure.* Who are the knowledgeable sources? Where is the public information? The complaint has no identification of the source of this alleged public information or knowledgeable sources. None of the attached documents refers to any fundraising, communication or campaign activities of either Charles or Judy Black with the Chamber. In fact, there is not a single reference to Charles or Judy Black in any of the "supporting documentations."

One statement in the complaint is accurate - Judy Black does work at Brownstein Hyatt Farber Schreck ("Firm"). The Firm does lobby for an affiliated or subsidiary organization of the U.S. Chamber - the Institute for Legal Reform ("Institute"). Judy Black does not lobby for this client and was unaware of the Firm's representation prior to receiving the complaint. The Firm's representation of this Institute is of no relevance to the Commission's analysis of the complaint. The Firm's lobbying representation for legal reform has no relationship to the Norton Campaign or any of the Chamber's expenditures in a Colorado primary election.

Attached to this response are affidavits of Charles and Judy Black, expressly denying they raised money for any Chamber of Commerce independent expenditures or electioneering communications. They stated unequivocally that they have no knowledge of any meeting between the Norton campaign or the Chamber to coordinate any independent expenditures or electioneering communications.

There is no public information provided to the Commission with the complaint. There are no names of knowledgeable sources provided to the Commission. Why are none provided in the complaint when the Commission's rules expressly require them? Because there is no public information nor knowledgeable sources to support these groundless assertions. Without any factual basis, the simple assertions of violations of the Act by the complainant are insufficient under the Commission's regulations for this matter to move forward.

Since the Blacks raised no money for the Chamber, had no role in the creation or placement of any independent expenditure or electioneering communication by the Chamber, and were not aware of any communication between the Chamber, its agents,

<sup>3</sup> 11 C.F.R. § 111.4(d)(2).

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the Norton primary campaign or its agents regarding any independent expenditure or electioneering communication, this matter should be closed immediately by the Commission with regards to my clients.

Sincerely,



E. Mark Braden

Enclosures

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**STATEMENT OF DESIGNATION OF COUNSEL**

**MUR: 6366**

**NAME OF COUNSEL:** E. Mark Braden


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The above-named individual is hereby designated as my counsel and is authorized to receive any notifications and other communications from the Commission and to act on my behalf before the Commission.

9-22-10  
Date

  
Signature

**RESPONDENT NAME:** Charles R. Black

**ADDRESS:** 1110 Vermont Avenue, N.W.  
Suite 1000  
Washington, DC 20005

**PHONE:** HOME: BUSINESS (202) 530-0500

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